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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,484	05/24/2001	Ronald S. Cok	82831THC	2988

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EXAMINER	
SHAPIRO, LEONID	

ART UNIT	PAPER NUMBER
2673	11

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	09/864,482	TOREK ET AL.	
	Examiner	Art Unit	
	Leonid Shapiro	2673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 September 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,5-11 and 15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 5-11, 15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

Response to Arguments

1. In view of the Appeal brief filed on 09-08-03, PROSECUTION IS HEREBY REOPENED. Terms set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 5-11 and 15 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of Feldman et al. (copending Application No. US 2002/0186208 A1) in view of Doany et al. (US Patent No 5,796,509).

This is a provisional obviousness-type double patenting rejection.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: 'a touch screen for use with an organic light emitting diode (OLED) display, comprising: a substrate having a top and bottom side, the OLED display being located on the bottom side of the substrate; a plurality of touch screen elements located on the top side of substrate'.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolk et al. (US Patent No. 6, 485, 884 B2) in view of Doany et al. (US Patent No 5,796,509).

As to claim 1, Wolk et al. teaches a touch screen for use with an organic light emitting diode (OLED) display (See Fig. 1a, items 100, 110, 120, in description See Col. 9, Lines 9-42), comprising: a substrate having a top and bottom side, the OLED display being located on the bottom side of the substrate (See Fig. 1a, items 100, 110, 120, 130, in description See Col. 8, Lines 48-53); a plurality of touch screen elements located on the top side of substrate (See Fig. 1a, item 130, in description See Col. 9, Lines 16-20); a polarizing element for reducing glare and improving contrast of the OLED display (See Fig. 1a, items 100, 110, 130, in description See Col. 9, Lines 30-33 and Col. 1, Lines 16-42).

Wolk et al. does not show a polarizing element is an integral part of the substrate.

Doany et al. teaches a polarizing element is an integral part of the substrate (See Figs. 1, 3, items P1, 165, in description See Col. 5, Lines 1-26).

It would have been obvious to one of ordinary skill in the art at the time of the invention use polarizing element as shown by Doany et al. in Wolk et al. apparatus in order to reduce glare and improve contrast of the OLED display (See Col. 9, Lines 25-30 and Col. 21, Lines 60-65 in the Wolk et al. reference).

As to claim 5, Wolk et al. teaches the OLED display is a top emitting (See Fig. 1b, items 150,152a, 152b, in description See Col. 9, Lines 43-58) and substrate of the touch screen also serves as a cover sheet on the top emitting display (See Fig. 1, item 130, in description See Col. 9, Lines 15-20).

As to claim 6, Wolk et al. teaches the OLED display is a bottom emitting display having a substrate on which are deposited organic light emitting elements that emit light through the substrate of the display (See Fig. 1a, items 120,110, in description See Col. 8, Lines 48-50) and Doany et al. teaches the substrate of the display also serves as the substrate of the touch screen (See Fig. 1a, items 120,130, in description See Col. 8, Lines 10-21).

4. Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Walk et al. and Doany et al. as aforementioned in claim 1 in view of Goldan et al. (US Patent No. 6,483,498 B1).

Walk et al. and Doany et al. do not show the touch screen is a resistive wire touch screen.

Golgan et al. teaches the touch screen is a resistive wire touch screen (See in description Col. 4, Lines 30-34).

It would have been obvious to one of ordinary skill in the art at the time of the invention use the touch screen is a resistive wire touch screen as shown by Goldan et al. in Doany et al. and Wolk et al. apparatus in order to include touch panel in information display (See Col. 9, Lines 14-18 in the Wolk et al. reference).

5. Claims 8-9, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walk et al. and Doany et al. as aforementioned in claim1 in view of Quist et al. (US 2002/0044065 A1).

Walk et al. and Doany et al. do not show a four-wire, a five-wire or a capacitive touch screen.

Quist et al. teaches a four-wire, a five-wire or a capacitive touch screen (See Fig. 5-6, item 26, in description See Col. 6, paragraph 0046). It would have been obvious to one of

ordinary skill in the art at the time of the invention use a four-wire, a five-wire or a capacitive touch screen as shown by Quist et al. in Wolk et al. and Doany et al. apparatus in order to reduce glare and improve contrast of the OLED display (See Col. 9, Lines 25-30 and Col. 21, Lines 60-65 in the Wolk et al. reference).

6. Claim 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Walk et al. and Doany et al. as aforementioned in claim 1 in view of Duwaer (US Patent No. 5,402,151).

Walk et al. and Doany et al. do not show a surface acoustic wave touch screen.

Duwaer teaches a surface acoustic wave touch screen (See Fig. 1, items 10,16,18,20,22,24, in description See Col. 6, Line18-37). It would have been obvious to one of ordinary skill in the art at the time of the invention use a surface acoustic wave touch screen as shown by Duwaer in Walk et al. and Doany et al. apparatus in order to reduce glare and improve contrast of the OLED display (See Col. 9, Lines 25-30 and Col. 21, Lines 60-65 in the Wolk et al. reference).

7. Claim 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Walk et al. and Doany et al. as aforementioned in claim 1 in view of Albro et al. (US Patent No. 6,403,223 B1).

Walk et al. and Doany et al. do not show a circular polarizer as polarizing element.

Albro et al. teaches a circular polarizer as polarizing element (See Fig. 2b, items 12,20, in description See Col. 10, Line 24-40). It would have been obvious to one of ordinary skill in the art at the time of the invention use a circular polarizer as polarizing element as shown by Albro et al. in Walk et al. and Doany et al. apparatus in order to reduce glare and improve

contrast of the OLED display (See Col. 9, Lines 25-30 and Col. 21, Lines 60-65 in the Wolk et al. reference).

Response to Amendment

8. Applicant's arguments filed on 09-08-03 with respect to claims 1, 5-11, 15 have been considered but are moot in view of the new ground(s) of rejection.

Telephone inquire

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid Shapiro whose telephone number is 703-305-5661. The examiner can normally be reached on 8 a.m. to 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on 703-305-4938. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

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VIJAY SHANKAR
PRIMARY EXAMINER